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Re: El Sol Broadcasting, LLC  
WJTI(AM), Racine, WI  
Facility ID Number: 68759  
File Number: BMP-20081119AHW  
Informal Objection

Dear Counsel:

This is in reference to the above-captioned minor change application for radio station WJTI(AM)<sup>1</sup>, Racine, Wisconsin licensed to El Sol Broadcasting, LLC ("El Sol"), as amended on March 31, 2009; the March 16, 2009 Informal Objection ("Objection") filed by West Bend Broadcasting Co. ("West Bend"), licensee of Station WBKV(AM), West Bend, Wisconsin; the April 2, 2009, Response filed by El Sol; and the April 7, 2009 Reply to Response of El Sol Broadcasting, LLC filed by West Bend. The objection will be denied and the application will be conditionally granted.

**Background.** El Sol filed its application pursuant to Section 73.3573(g) of the Commission's Rules (the "Rules"), which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file a competing expression of interest. Any reallocation proposal must result in a preferential arrangement of allotments.<sup>2</sup> We make this determination using the FM allotment priorities set

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<sup>1</sup> El Sol proposes for WJTI(AM) to change its principal community of license from Racine, Wisconsin to West Allis, Wisconsin; to change the class of station from a Class D station to a Class B station; to change from a non directional operation to a directional operation and to relocate the transmitter site.

<sup>2</sup> See *Modification of FM and TV Authorizations to Specify a New Community of License ("Community of License")*, Report and Order, 4 FCC Rcd 4870 (1989), *recon. granted in part*, Memorandum Opinion and Order, 5 FCC Rcd 7094 (1990).

forth in *Revision of FM Assignment Policies and Procedures*.<sup>3</sup> This application would provide a first local transmission service to West Allis under Priority (3).

In its Objection, West Bend requests the dismissal of El Sol's application for failure to provide a *Tuck* showing, and failing to protect WBKV(AM) from harmful interference. In the alternative, West Bend requests that the grant of the application be withheld until El Sol has amended its application to show adequate protection to the WBKV(AM) service area based upon measured data, and the application be conditioned to maintaining the stability of the array and showing absence of out of band emissions. West Bend claims that the new WJTI(AM) West Allis site is inside of WBKV(AM)'s 0.5 mV/m contour, and that the measurements from the WJTI(AM) construction permit site<sup>4</sup> suggest that extensive additional interference will be received in some highly populated areas near Milwaukee. West Bend states that WJTI(AM)'s existing interference to WBKV(AM) is inaccurate because it is based on M-3 rather than measurements from the licensed site or in the alternative from the CP day site; and that there are several sizeable metal re-radiating structures in close proximity to El Sol's proposed site that will make diplexing difficult and are likely to create spurious emissions that will negatively impact WBKV(AM). West Bend requests measurements to be taken on WJTI(AM)'s licensed Racine sites for comparison purposes; that the construction permit be granted with the requirement that no additional interference be caused to WBKV(AM) as a result of the finally adjusted pattern; that WJTI(AM)'s array be designated as a critical array and its parameters required to be maintained within 1% current ratio and 1° phase; and that out-of-band emissions be checked after construction for the entire AM broadcast band.

In its Response, El Sol contends that the amended proposal reduces contour overlap between the proposed WJTI(AM) facility and WBKV(AM); that it is not required to take measurements pursuant to Section 73.183 of the Rules, which states that in the absence of measurements Figure M-3 ground conductivities will be used; that El Sol is unable to establish the present WJTI(AM) licensed contours due to the loss of its Racine licensed site; and that the Commission no longer designates arrays as critical anymore. (See FCC 01-60, Docket 93-177, effective May 25, 2001, Section IV, Paragraph 4).

In its Reply to Response, West Bend states that the WJTI(AM) amendment lacks a new allocation study and that El Sol stated in its response that it will accept that the Commission will set specific construction conditions. West Bend wants the Commission to require El Sol to provide proof of the day pattern using traditional field measurements and radial analysis instead of Method of Moments" ("MOM") because of the hostile environment and because a four tower array with short spacing is unstable. However, whether or not MOM is used, West Bend requests that: (1) El Sol measure daytime directional and directional field from 0 to 25 miles on the 0° with radiation not to exceed 100.57 mV/m/km; 290° with radiation not to exceed 41.22 mV/m/km; 315° with radiation not to exceed 61.90 mV/m/km and 335° with radiation not to exceed 71.75 mV/m/km; (2) that monitor points should be established on the above radials; (3) that augmentations not be allowed on these radials; (4) that the monitor points be read and logged once per month; (5) that if the monitor point limits are exceeded, the station immediately

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<sup>3</sup> *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1988). The FM allotment priorities are: (1) First fulltime aural service, (2) Second fulltime aural service, (3) First local service and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3).

<sup>4</sup> West Bend states that the WJTI(AM) licensed site is 5.52 miles (8.88 km) from the WJTI(AM) construction permit site where the measurements were taken and suggests the conductivity for the WJTI(AM) licensed site is less than M-3 measured conductivity so that WJTI(AM) cannot claim that overlap is reduced.

be reduced so that readings would be within limits; and (6) that WJTI(AM) demonstrate preferably by use of a calibrated spectrum analyzer, that all spurious emissions are within FCC limits as set fourth in Section 73.44 of the Rules.

**Discussion.** We find that the Station WJTI(AM) reallocation to West Allis would constitute a preferential arrangement of allotments as required by *Community of License*. We first conclude that West Allis is entitled to a Priority 3 preference as a first local service. In this regard, El Sol in its amendment filed an acceptable *Tuck* showing demonstrating that West Allis is independent of the Milwaukee Urbanized Area. As such, the reallocation of WJTI(AM) to West Allis as a first local service (Priority 3) is preferred over the retention of a fourth local service at Racine (Priority 4).

We further find that the Station WJTI(AM) reallocation to West Allis does not violate Section 73.37 of the Commission's Rules with respect to WBKV(AM). In this regard, the WJTI(AM) proposal would reduce the existing overlap between the proposed 0.25 mV/m contour and the WBKV(AM)'s protected 0.5 mV/m contour. With respect to the critical array issue, we find that since the Commission removed the critical array designation in MM Docket No. 93-177, we cannot designate this array as a critical array and impose tight tolerances and an expensive antenna monitor. Furthermore, we find that there is no basis to impose specific radials with monitor point limits to protect WBKV(AM) because it was not shown that there is a need for such requirement. Moreover, we find that it is sufficient for El Sol to conduct a daytime directional antenna verification pursuant to Section 73.151 of the Rules<sup>5</sup> as this will assure that WJTI(AM) will be within its standard pattern and will adequately protect WBKV(AM). Finally, we find there is no basis for prohibiting WJTI(AM) from filing any augmentation application as it will be considered on its merit, and we will condition the construction permit requiring WJTI(AM) to show that its operation with co-located WGLB(AM), Elm Grove, will not create harmful intermodulation products.

Accordingly, the March 16, 2009, Informal Objection filed by West Bend Broadcasting Co. is hereby DISMISSED as moot, and the application of El Sol Broadcasting, LLC, File Number: BMP-20081119AHW, is GRANTED.

Sincerely,



Son Nguyen  
Supervisory Engineer  
Audio Division  
Media Bureau

cc: R. Stuart Graham  
El Sol Broadcasting, LLC

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<sup>5</sup> El Sol can verify its directional antenna performance pursuant to this section by either field strength measurements or computer modeling if the towers are series fed.